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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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May 2, 2007

The Honorable Robert M. Gates  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Mr. Secretary:

Over the past year, a series of governmental assessments and press accounts have reported serious problems with the Expeditionary Fighting Vehicle (EFV), the amphibious assault vehicle currently being developed for the Marine Corps.

These problems include increased acquisition cost estimates,<sup>1</sup> schedule delays,<sup>2</sup> design and technology hurdles,<sup>3</sup> and poor reliability.<sup>4</sup> According to published accounts, an independent review of the EFV concluded that the contractor, General Dynamics, “seems to be focused on production rather than on solving significant design and engineering problems.” The same report

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<sup>1</sup> Department of Defense, *SAR Program Acquisition Cost Summary As Of Date: December 31, 2006* (online at <http://www.defenselink.mil/news/Apr2007/d20070409sars.pdf>) (accessed Apr. 26, 2007) (reporting that acquisition costs have increased by nearly \$4 billion, from \$8.7 billion in December 2000 to \$11.9 billion in December 2006).

<sup>2</sup> U.S. Government Accountability Office, *Defense Acquisitions: The Expeditionary Fighting Vehicle Encountered Difficulties in Design Demonstration and Faces Future Risks* (May 2006) (GAO-06-349) (reporting that the schedule has grown 35%, or 4 years, since 2000).

<sup>3</sup> U.S. Government Accountability Office, *Defense Acquisitions: The Expeditionary Fighting Vehicle Encountered Difficulties in Design Demonstration and Faces Future Risks* (May 2006) (GAO-06-349) (reporting that problems with the vehicle’s hydraulic systems resulted in leaks “from all sources,” while the bow flap has repeatedly failed in testing).

<sup>4</sup> *Problems Stall Pentagon’s New Fighting Vehicle*, Washington Post (Feb. 7, 2007) (reporting that the EFV breaks down approximately every 4 ½ hours). See also *U.S. Marine EFV Delivery Delayed to 2015 and Costs Double*, DefenseNews.com (Mar. 14, 2007) (online at <http://defensenews.com/story.php?F=2622633&C=navwar>) (reporting that an internal defense review found “limited evidence” that the vehicle could meet reliability requirements).

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recommended that the Department consider recovering some of the \$80 million in bonuses and award fees paid to General Dynamics.<sup>5</sup> Instead, the Department awarded General Dynamics an additional \$144 million contract in March 2007 to continue its work on the EFV.<sup>6</sup>

As part of the Committee's ongoing oversight of contract management at the Department of Defense, I am writing to request copies of the following documents related to the EFV:

1. All audits, reports, and analyses relating to contractor practices under this contract, including reports issued by consultants;
2. All assessments, evaluations, and reports relating to contractor compensation determinations;
3. All audits, reports, and analyses relating to the operational requirements, testing, and/or evaluation of the EFV, including reports prepared by consultants;
4. All audits, reports, and analyses relating to the program's practice of co-locating government and contractor personnel;
5. All materials submitted in response to the Sources Sought Notice dated February 5, 2007, for an EFV design concept (M67854070032), and all documents related to the evaluation of those materials, including cost and price evaluations;
6. A list of the names and employers of all Department contractor personnel involved with the preparation, administration, processing, evaluation, management, or oversight of the EFV contract;
7. A list of the names of all contractor personnel involved with the EFV program, including both Department contractor personnel and personnel employed by General Dynamics or any of its subsidiaries, subcontractors, or affiliates, who were formerly employed by the Department; and
8. A current organizational chart for the EFV program office.

The Committee requests that you provide these documents as soon as possible, but in no case later than **Friday, May 18, 2007**. If you determine that you will be unable to make a complete production by this date, please contact Committee staff to discuss possible modifications to this schedule. The Committee also requests a briefing on the EFV program.

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<sup>5</sup> *Problems Stall Pentagon's New Fighting Vehicle*, Washington Post (Feb. 7, 2007).

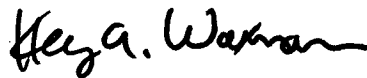
<sup>6</sup> *USMC Continues Amphibious Vehicle Funding*, United Press International (Mar. 20, 2007).

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The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. An attachment to this letter provides additional information on how to respond to the Committee's request.

If you have any questions regarding this request, please contact David Rapallo or Margaret Daum with the Committee staff at (202) 225-5420.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Henry A. Waxman  
Chairman

Enclosure

cc: Tom Davis  
Ranking Minority Member

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### Responding to Oversight Committee Document Requests

In responding to the document request from the Committee on Oversight and Government Reform, please apply the instructions and definitions set forth below.

#### Instructions

1. In complying with the request, you should produce all responsive documents in your possession, custody, or control.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
4. Each document produced should be produced in a form that renders the document capable of being copied.
5. When you produce documents, you should identify the paragraph or clause in the Committee's request to which the documents respond.
6. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a nonidentical or identical copy of the same document.

9. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above. Documents produced in an electronic format should also be produced in a searchable format.
10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other. Please note that the Committee generally recognizes only constitutional privileges.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly discovered document. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be bates-stamped sequentially and produced sequentially.
15. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The majority set should be delivered to the majority staff in Room 2157 of the Rayburn House Office Building, and the minority set should be delivered to the minority staff in Room B350A in the Rayburn House Office Building.
16. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

## Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “documents in your possession, custody, or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
4. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms “person” or “persons” means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures,

proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms “referring” or “relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.